

REMARKS:

This response accompanies a Request for Continued Examination under 37 CFR 1.114. The RCE submitted herewith replaces the filing of an Appeal Brief subsequent to the Notice of Appeal filed October 20<sup>th</sup>, 2006. The due date for filing the Appeal Brief expired December 20<sup>th</sup>, 2006 and hence this RCE and Response are filed on February 20<sup>th</sup>, 2007 together with a request for extension of time of two months.

With regard to the rejection under 35 U.S.C.102(e), it has been previously presented that the present application is claims the benefit of the priority date of June 14<sup>th</sup>, 2001 from Provisional Application 60/325,785 which is earlier than the filing date of December 11<sup>th</sup>, 2001 of Patent 6,881,288 and Patent 6,872,273 cited by the Examiner.

In a telephone discussion with the Examiner in February 2007, the Examiner explained that the conclusion had been reached in the Notice of Panel Decision dated December 1<sup>st</sup>, 2006 that the participants had concluded that the claims previously presented were not entitled to the priority date claimed of June 14<sup>th</sup>, 2001 from Provisional Application 60/325,785. The Examiner pointed particularly to the term "*the fibers within the wall*" with the implication that this feature cannot be found in the above provisional application.

The claims presented herein have been carefully revised to use the terms set forth in the Provisional Application so that most terms are set out verbatim in the claims and thus MUST find basis in the Provisional Application.

The following is a chart of the claims presently on file together with location in the Provisional Application 60/325,785 (hereinafter referred to as

"Provisional") where the feature can be found. In most cases this is in the claims of the Provisional Application. In some cases reference to the text has been made.

CLAIM 1.A pultruded part comprising:	See Claim 1 of Provisional
a wall having a first surface and a second surface spaced by a thickness of the part, the wall extending longitudinally in a pultrusion direction and having a transverse width transverse to the longitudinal pultrusion direction;	See Claim 1 of Provisional
reinforcing fibers within the wall	See Claim 1 of Provisional
a thermo-set, cross-linked poly-urethane	See Claims 6, 3 and 4 of Provisional
permeated through the fiber layers and filling the thickness between the surfaces so as to define the surfaces;	See Claim 1 of Provisional
the reinforcing fibers including a first layer of fibers having fibers extending only in the longitudinal pultrusion direction;	See Claim 1 of Provisional
the reinforcing fibers including a second layer of fibers at least some of which include at least portions thereof which extend in the transverse direction;	See Claim 1 of Provisional
the second layer of fibers having weight	See Claim 14 of Provisional.

less than 0.5 ounces per square foot	
CLAIM 2 wherein the wall includes a leg portion thereof in which the reinforcing fibers consist solely of the longitudinal fibers	See Claim 17 of Provisional
CLAIM 3 wherein the second layer of fibers comprises wholly cut fibers.	See Claim 9 of Provisional
CLAIM 4 wherein the second layer of fibers is a scrim or mesh having openings for penetration of the resin between the fibers	See Claim 15 of Provisional
CLAIM 5 wherein the wall includes a leg portion thereof connected to a main body portion of the wall only at one end of the leg so as to define a second free end of the leg and wherein reinforcing fibers in the leg consist solely of longitudinal fibers	See Claims 17 and 18 of Provisional
CLAIM 6 wherein the leg portion has a wall that is thicker than that of the main body portion	See Claim 19 of Provisional
CLAIM 7 wherein the second layer includes fibers which are formed of metal strands	See Claim 16 of Provisional

CLAIM 8 wherein the second layer of fibers has a weight less than 0.25 ounces per square foot	See Claim 14 of Provisional
CLAIM 9 wherein the second layer of fibers each has a weight which is of the order of 0.1 ounces per square foot	See Claim 14 of Provisional
CLAIM 10	SEE CLAIM 11 BELOW
CLAIM 11 A pultruded part comprising	See Claim 2 of Provisional
a wall having a first surface and a second surface spaced by a thickness of the part, the wall extending longitudinally in a longitudinal pultrusion direction and having a transverse width transverse to the longitudinal pultrusion direction	See Claim 2 of Provisional
the wall defining a peripheral wall fully surrounding a hollow interior such that the first surface faces outwardly and the second surface faces inwardly	See Claim 2 of Provisional
reinforcing fibers within the wall	See Claim 2 of Provisional
a cross-linked resin material permeated through the fibers and filling the thickness between the surfaces so as to define the surfaces	See Claim 2 and 3 of Provisional

the reinforcing fibers including a first layer of fibers extending in the longitudinal pultrusion direction and located at the first surface	See Claim 2 of Provisional
the reinforcing fibers including a transverse layer of fibers at least some of which include at least portions thereof which extend in the transverse direction and located at the second surface	See Claim 2 of Provisional
the transverse layer comprising a mat	See Figure 7 and the description of Figure 7 on Page 16 first paragraph
the reinforcing fibers consisting solely of the first layer and the transverse layer which are in contact at a location between the first and second surfaces	See Figure 7 and the description of Figure 7 on Page 16 first paragraph
CLAIM 13 wherein the resin is a thermoset cross-linked polyurethane	See Claims 3, 4 and 6 of Provisional
CLAIM 15 wherein the transverse layer of fibers comprises wholly cut fibers	See Claim 9 of Provisional
CLAIM 16 wherein the transverse layer of fibers is a scrim or mesh having openings for penetration of the resin between the fibers	See Claim 15 of Provisional

CLAIM 17 wherein the wall includes a leg portion thereof connected to a main body portion of the wall only at one end of the leg so as to define a second free end of the leg and wherein reinforcing fibers in at least part of the leg consist solely of longitudinal fibers	See Claims 17 and 18 of Provisional
CLAIM 18 wherein the leg portion has a wall that is thicker than that of the main body portion	See Claim 19 of Provisional
CLAIM 20 wherein the transverse layer of fibers has a weight which is less than 0.5 ounces per square foot	See Claim 14 of Provisional
CLAIM 21 wherein the transverse layer of fibers has a weight which is less than 0.25 ounces per square foot	See Claim 14 of Provisional
CLAIM 22 wherein the transverse layer of fibers each has a weight which is of the order of 0.1 ounces per square foot	See Claim 14 of Provisional

As set forth in MPEP at 706.02(b) there is stated that a rejection based on 35 U.S.C.102(e) can be overcome by:

*(F) Perfecting priority under 35 U.S.C. 119(e) ...and establishing that the prior application (which is in this case 60/25,785) satisfies the enablement and written description requirements of 35 U.S.C.112.*

It is clearly established therefore that the provisional application from which this application claims priority, as set forth on page 1 of the application and in the declaration and in the filing certificate, describes the features set forth in all the claims and particularly Claims 1 and 11 which are in question herein.

It is submitted therefore that the rejections under 35 U.S.C.102(e) are not proper and should be withdrawn.

With regard to the rejection under 35 U.S.C.103 based on WO 00/78529 it is noted that this reference was published on December 28<sup>th</sup> 2000 and hence it was not published more than one year prior to the filing date of the Provisional application identified above filed on June 14<sup>th</sup> 2001 and hence it cannot be cited under 35 U.S.C.102(b) and hence it cannot be used in a rejection under 35 U.S.C.103. Further it will be noted that the US patents which correspond to the WO 529 are those of Davies cited above which are also not prior art under 35 U.S.C.102.

The only reference properly citable under 35 U.S.C.102 is that of Kaiser. However Kaiser does not disclose the features of Claims 1 or 11 above and the Examiner does not allege that it does.

It is submitted therefore that the rejection based on the Patents 6,881,288 and Patent 6,872,273 cited by the Examiner should be withdrawn and the claims should be allowed.

Respectfully submitted

LAURENCE W. DAVIES ET AL

PER: 

Adrian D. Battison

Registration No: 81,726

ADB/II  
February 20, 2006  
Enc.(2)  
Adrian D. Battison

Winnipeg, Manitoba, Canada  
Telephone (204) 944-0032 - FAX (204) 942-5723